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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,195	07/11/2003	Cameron P. James	JAM 1.2-2	4276
7590	07/09/2004		EXAMINER	
Walters & Morse, P.C. 400 Ledyard Building 125 Ottawa, N.W. Grand Rapids, MI 49503			MAI, TRJ M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/618,195	JAMES, CAMERON P.
	Examiner	Art Unit
	Tri M. Mai	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \*    c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/11/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to: **all photographs must be replaced by drawings.**

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. **The objection to the drawings will be held in abeyance.**

### *Claim Rejections - 35 USC § 112*

2. Claims 1, 5-6, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5-6 do not comply with the requirements of the 35 U.S.C. 112, second paragraph. *Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982).* The claim scope is uncertain since the trademark or trade name "Harley Davidson" cannot be used properly to identify any particular

material or product. In fact, the value of a trademark would be lost to the extent that it became descriptive of a product, rather than used as an identification of a source or origin of a product. Thus, the use of a trademark or trade name in a claim to identify or describe a material or product would not only render a claim indefinite, but would also constitute an improper use of the trademark or trade name.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 9, "original fasteners" has no antecedent basis.

***Claim Rejections - 35 USC § 102/103***

3. Claims 1, 5, 9, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Puluso (6401998). Puluso teaches a rack having a mounting plate 97, a mounting block 102, a cradle 20, a mounting bracket 27 with a hole, and a cradle fastener 105.

4. Claims 10, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puluso in view of Abbott (5727642), and further in view of Laesch (4387836). Abbott teaches that it is known in the art to provide a cradle having rods and a connector strap. It would have been obvious to one of ordinary skill in the art to provide a cradle having rods and connector straps in Puluso as taught by Abbott to provide an alternative cradle for holding the gold bag.

Laesch teaches that it is known in the art to provide additional posts for holding a golf bag. Furthermore, it would have been obvious to one of ordinary skill in the art to provide additional posts and straps to provide added rigidity.

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5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Puluso in view of Gogan et al. (5664715). Gogan teaches that it is known in the art to provide a threaded bolt mounted through the threaded holes as shown in fig. 6. It would have been obvious to one of ordinary skill in the art to provide threaded holes in the cradle mounting plate and the mounting block in Puluso as taught by Gogan to provide an alternative fastening means.

6. Claims 1, 2, 5-9, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Aron (6293450). Aron teaches a rack having a mounting plate 32, a mounting block 42, a cradle 10, and a mounting bracket 12 and a cradle fastener 52.

Regarding claim 2, note the curved recess in the plate 32.

7. Claims 3, 4, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aron in view of Hann (5762249). Aron meets all claimed limitations except for the bracket is mounted at an inclined angle. Hann teaches that it is known in the art to provide a bracket mounted at an inclined angle. It would have been obvious to one of ordinary skill in the art mount the bracket of at an inclined angle, e.g. 30 degrees, in Aron as taught by Hann to prevent damage and/or accident.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai  
Primary Examiner  
Art Unit 3727

